

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

PIONEER HI-BRED INTERNATIONAL, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
DOES 1-5,)	
)	
Defendants.)	JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Pioneer Hi-Bred International ("Pioneer") complains as follows against Defendants Does 1-5 ("Defendants").

PARTIES

1. Pioneer is a corporation organized and existing under the laws of the State of Iowa, with its principal place of business in Polk County, Iowa. It is authorized to do and is doing business in Missouri and this judicial district.

2. On information and belief, Defendants Does 1-5 are individuals, residences unknown, who are offering to sell, selling, transferring and/or supplying Pioneer transgenic seed incorporating patented technology owned by Pioneer without license or authorization. Pioneer is unaware of the true names and identities of Defendants sued here as Does 1-5, and therefore sues Defendants by such fictitious names.

JURISDICTION AND VENUE

3. This is an action for patent infringement under the United States Patent Laws, 35 U.S.C. § 1 *et. seq.*, including 35 U.S.C. § 271.

EXHIBIT A

UNITED STATES PATENTS

5,082,991,	5,097,095,	5,567,861,	5,602,312,	5,608,138,	5,844,116,	5,852,226,	5,942,671,
6,020,543,	6,114,614,	6,127,610,	6,130,370,	6,160,211,	6,313,384,	6,333,452,	6,333,453,
6,344,603,	6,605,760,	6,605,761,	6,706,954,	6,717,040,	6,720,486,	6,734,348,	6,774,289,
6,777,597,	6,797,864,	6,815,585,	6,818,811,	6,849,791,	6,855,875,	6,858,781,	6,872,873,
6,872,874,	6,881,881,	6,888,051,	6,897,361,	6,897,363,	6,897,365,	6,903,254,	6,906,251,
6,914,177,	6,914,178,	6,916,975,	6,927,327,	6,933,425,	6,936,752,	6,953,877,	6,956,153,
6,958,437,	6,958,438,	6,960,708,	6,967,269,	6,969,788,	6,969,789,	6,969,790,	6,974,899,
6,977,327,	6,982,371,	6,987,217,	6,989,478,	6,992,239,	6,995,303,	7,005,566,	7,009,094,
7,015,374,	7,015,379,	7,015,386,	7,022,902,	7,022,904,	7,030,302,	7,030,303,	7,034,211,
7,049,495,	7,049,499,	7,053,276,	7,053,277,	7,067,727,	7,071,393,	7,071,394,	7,071,395,
7,074,991,	7,078,601,	7,084,332,	7,087,820,	7,087,822,	7,094,957,	7,109,403,	7,112,728,
7,112,731,	7,129,402,	7,151,207,	7,161,072,	7,161,074,	7,164,061,	7,164,067,	7,164,069,
7,166,784,	7,169,979,	7,169,987,	7,169,988,	7,176,360,	7,179,968,	7,179,970,	7,186,896,
7,186,902,	7,186,905,	7,189,905,	7,193,144,	7,193,145,	7,196,255,	7,196,256,	7,211,718,
7,214,865,	7,227,064,	7,230,171,	7,230,172,	7,232,946,	7,241,939,	7,256,331,	7,259,302,
7,259,304,	7,262,345,	7,262,350,	7,271,319,	7,271,323,	7,271,327,	7,273,969,	7,323,973,
7,282,629,	7,285,707,	7,288,703,	7,291,773,	7,294,766,	7,294,774,	7,297,841,	7,297,850,
7,301,082,	7,304,222,	7,312,385,	7,314,989,	7,314,990,	7,317,147,	7,317,149,	7,317,150,
7,317,151,	7,317,152,	7,317,154,	7,326,833,	7,326,835,	7,329,805,	7,332,658,	7,332,659,
7,332,660,	7,335,824,	7,335,825,	7,339,096,	7,339,097,	7,342,154,	7,345,230,	7,355,104,
7,358,423,	7,358,425,	7,361,812,	7,371,939,	7,371,944,	7,375,263,	7,375,264,	7,378,574,
7,381,871,	7,388,133,	7,388,141,	7,399,906,	7,399,908,	7,399,914,	7,411,118,	7,427,701,
7,427,702,	7,429,695,	7,432,423,	7,432,424,	7,435,881,	7,435,883,	7,439,425,	7,456,346,
7,456,348,	7,459,610,	7,470,833,	7,470,834,	7,470,838,	7,473,827,	7,479,581,	7,479,588,
7,482,513,	7,485,778,	7,495,154,	7,498,487,	7,498,488,	7,504,568,	7,507,877,	7,507,882,
7,511,194,	7,511,196,	7,511,205,	7,514,601,	7,518,037,	7,521,611,	7,525,020,	7,525,021,
7,525,022,	7,528,300,	7,528,307,	7,528,308,	7,541,524,	7,541,525,	7,541,526,	7,544,865,
7,547,825,	7,547,828,	7,550,656,	7,550,657,	7,563,957,	7,563,958,	7,563,960,	7,563,961,
7,563,962,	7,563,963,	7,563,964,	7,566,819,	7,569,749,	7,569,753,	7,569,754,	7,569,755,
7,569,756,	7,569,757,	7,572,961,	7,572,962,	7,572,963,	7,576,266,	7,576,269,	7,576,270,
7,576,271,	7,579,522,	7,579,530,	7,582,815,	7,582,816,	7,586,025,	7,586,026,	7,586,027,
7,586,028,	7,589,259,	7,589,260,	7,589,261,	7,589,264,	7,592,519,	7,592,523,	7,592,524,
7,595,436,	7,598,435,	7,601,897,	7,601,898,	7,608,764,	7,612,263,	7,612,264,	7,612,265,
7,615,690,	7,619,149,	7,629,512,	7,632,988,	7,632,989,	7,638,688,	7,638,695,	7,642,417,
7,642,418,	7,642,421,	7,645,921,	7,645,923,	7,652,200,	7,652,201,	7,655,848,	7,663,029,
7,663,032,	7,667,107,	7,700,855,	7,705,219,	7,718,856,	7,732,683,	7,737,340,	7,737,341,
7,737,342,	7,745,701,	7,745,705,	7,745,706,	7,754,948,	7,759,554,	7,759,555,	7,767,888,
7,767,889,	7,777,107,	7,790,969,	7,795,506,	7,799,974,	7,799,975,	7,807,883,	7,812,225,
7,812,226,	7,816,585,	7,816,586,	7,820,885,	7,820,891,	7,820,892,	7,820,895,	7,825,299,
7,825,307,	7,825,308,	7,825,310,	7,829,764,	7,834,257,	7,838,737,	7,838,739,	7,838,744,
7,838,745,	7,838,747,	7,842,858,	7,842,859,	7,842,860,	7,842,861,	7,842,863,	7,842,865,
7,847,167,	7,858,852,	7,858,856,	7,863,504,	7,868,232,	7,868,233,	7,872,175,	7,872,176,
7,872,180,	7,875,770,	7,875,771,	7,884,270,	7,888,563,	7,897,852,	7,897,855,	7,902,431,
7,902,432,	7,902,434,	7,902,437,	7,902,440,	7,915,490,	7,919,692,	7,923,604,	7,923,605,
7,923,612,	7,923,613,	7,928,297,	7,928,300,	7,928,301,	7,932,446,	7,932,447,	7,935,873,

7,939,724, 7,943,836, 7,956,244, 7,956,245, 7,956,257, 7,960,619, 7,968,776, 7,973,221,
7,977,545, 7,977,547, 7,977,548, 7,977,551, 7,977,552, 7,977,553, 7,982,108, 7,985,902,
7,985,904, 7,989,683, 7,989,684, 7,989,685, 7,994,405, 8,003,686, 8,003,867, 8,013,225

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338. Additionally, this Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over Pioneer's non-federal question claims, such that they form part of the same case or controversy.

5. This Court has personal jurisdiction over Defendants because Defendants have committed unlawful acts in this judicial district by offering for sale, selling, transferring and/or supplying Pioneer seed in this Judicial District without a license.

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FACTUAL BACKGROUND

7. Pioneer, a DuPont business headquartered in Des Moines, Iowa, is the world's leading developer and supplier of advanced plant genetics, providing high-quality seeds to farmers in more than ninety countries.

8. Pioneer provides agronomic support and services to help increase farmer productivity and profitability and strives to develop sustainable agricultural systems for people throughout the world.

9. Pioneer invests globally in research and development dedicated to the food, agriculture and nutrition sectors to help find solutions to global challenges for providing healthy food and protecting the environment.

10. To achieve its goals of protecting the environment and helping to develop a sustainable global agricultural system, Pioneer is in the business of developing, manufacturing, and licensing patented transgenic seed.

11. Pioneer's patented transgenic seed is protected under various United States patents and Plant Variety Protection Certificates owned by Pioneer, as set forth in Exhibits A and B attached to this Complaint.

12. Pioneer licenses its transgenic seed to growers pursuant to a limited use license, called a Seed and Technology Agreement (“Agreement”), which gives licensees the right to plant the seed for a single year. This Agreement precludes the right to re-sell the seed or its progeny seed for replanting.

13. Under the terms of the Agreement, growers agree that they will comply with government-mandated restrictions and refuge requirements for the transgenic seed.

14. Growers also agree that they will comply with grain marketing, channeling and stewardship responsibilities based on the seeds regulatory approval status outside of the United States.

15. The Doe Defendants in this action have been offering for sale and/or selling patented Pioneer seed on craigslist without Pioneer’s authorization and through unauthorized transgenic seed distribution channels.

16. In order to protect the distribution channel of its transgenic seed and grower compliance with government restrictions and requirements, Pioneer has no choice but to file this action seeking assistance from the Courts to protect its intellectual property and to require compliance with the Agreement and the stewardship obligations placed on Pioneer by the U.S. government, licensees, and good public policy.

17. Pioneer has complied with 35 U.S.C. § 287(a) through the Agreement, which indicates that the transgenic seed being licensed is protected by specific Pioneer patents and/or Plant Variety Protection (“PVP”) Certificates.

18. Pioneer will provide a list of particular limitations under which the seed was licensed to the Defendants once discovery is undertaken to determine the details of the seed that the Defendants sold, offered for sale, transferred, or supplied in violation of the Agreement.

19. On or around December 12, 2011, Defendant Doe 1 listed a posting, specifically identified as PostingID 2750236313, on the St. Joseph, Missouri area craigslist website offering to sell Pioneer soybean and corn seed.

20. Potential purchasers were prompted to respond to the following craigslist account if they were interested in purchasing the Pioneer seed from Defendant Doe 1: sale-vhgsz-2750236313@craigslist.org.

21. On information and belief, Defendant Doe 1 was offering to sell Pioneer soybean and corn seed incorporating technology owned by Pioneer, as set forth in Exhibits A and B attached to this Complaint.

22. On or around December 12, 2011, Defendant Doe 2 listed a posting, specifically identified as PostingID 2747688447, on the St. Joseph, Missouri area craigslist website offering to sell Pioneer soybean seed.

23. Potential purchasers were prompted to respond to the following craigslist account if they were interested in purchasing the Pioneer seed from Defendant Doe 2: sale-cfxq5-2747688447@craigslist.org.

24. On information and belief, Defendant Doe 2 was offering to sell Pioneer soybean seed incorporating technology owned by Pioneer, as set forth in Exhibits A and B attached to this Complaint.

25. On or around December 12, 2011, Defendant Doe 3 listed a posting, specifically identified as PostingID 2747688447, on the St. Joseph, Missouri area craigslist website offering to sell Pioneer seed.

26. Potential purchasers were prompted to respond to the following craigslist account if they were interested in purchasing the Pioneer seed from Defendant Doe 3: sale-cfxq5-2747688447@craigslist.org.

27. On information and belief, Defendant Doe 3 was offering to sell Pioneer seed incorporating technology owned by Pioneer, as set forth in Exhibits A and B attached to this Complaint.

28. On or around December 12, 2011, Defendant Doe 4 listed a posting, specifically identified as PostingID 2750072464, on the St. Joseph, Missouri area craigslist website offering to sell Pioneer soybean seed.

29. Potential purchasers were prompted to respond to the following craigslist account if they were interested in purchasing the Pioneer soybean seed from Defendant Doe 4: sale-3gyrg-2750072464@craigslist.org.

30. On information and belief, Defendant Doe 4 was offering to sell Pioneer soybean seed incorporating technology owned by Pioneer, as set forth in Exhibits A and B attached to this Complaint.

31. On or around December 17, 2011, Defendant Doe 5 listed a posting, specifically identified as PostingID 2757867554, on the St. Joseph, Missouri area craigslist website offering to sell Pioneer soybean and corn seed.

32. Potential purchasers were prompted to respond to the following craigslist account if they were interested in purchasing the Pioneer seed from Defendant Doe 5: sale-rafwa-2757867554@craigslist.org.

33. On information and belief, Defendant Doe 5 was offering to sell Pioneer soybean and corn seed incorporating technology owned by Pioneer, as set forth in Exhibits A and B attached to this Complaint.

34. On information and belief, Defendants Does 1-5 do not have a license to make, offer to sell, sell, transfer or supply Pioneer seed.

COUNT I: PATENT INFRINGEMENT

35. Pioneer realleges and incorporates by reference the allegations set forth in paragraphs 1-34 above.

36. Upon information and belief, Defendants have infringed and are believed to be infringing one or more of the patents listed in Exhibit A attached to this Complaint, duly and legally issued by the United States Patent and Trademark Office, by making, using, offering to sell, and/or selling Pioneer seed incorporating Pioneer's patented technology, without the requisite license or authorization from Pioneer.

37. Upon information and belief, Defendants' infringement will continue unless enjoined by this Court.

38. As a direct and proximate consequence of Defendants' infringement, Pioneer has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Pioneer is entitled to relief.

COUNT II: VIOLATION OF PLANT VARIETY PROTECTION ACT

39. Pioneer realleges and incorporates by reference the allegations set forth in paragraphs 1-38 above.

40. Defendants have violated and are believed to be violating Pioneer's rights under one or more PVP Certificates listed in Exhibit B attached to this Complaint, duly and legally issued by the United States Department of Agriculture, in violation of 7 U.S.C. §§ 2402, 2483,

and 2541, by conditioning, stocking, offering for sale, exposing for sale, marketing, selling, dispensing, delivering, and/or transferring Pioneer seed incorporating Pioneer's protected technology, and/or by instigating or actively inducing such conduct. On information and belief, Defendants were not authorized to and did not have a license allowing them to engage in this wrongful infringing conduct. On information and belief, this infringing conduct was not undertaken by Defendants for the purpose of plant breeding or bona fide research.

41. Upon information and belief, Defendants' infringing conduct will continue unless enjoined by this Court.

42. As a direct and proximate consequence of Defendants' infringing conduct, Pioneer has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Pioneer is entitled to relief.

COUNT III: BREACH OF CONTRACT

43. Pioneer realleges and incorporates by reference the allegations set forth in paragraphs 1-42 above.

44. On information and belief, Defendants Does 1-5 each entered into Seed and Technology Agreements with Pioneer.

45. The Agreements gave Defendants the opportunity to purchase and plant seed containing Pioneer's patented technology. The Agreements also placed Defendants on notice of the limitations on Defendants' use of seed containing Pioneer's patented technology, including, but not limited to, the limitation of rights to re-sell seed to any party.

46. The conduct of Defendants, as set forth above, is a breach of the Agreements.

47. As a direct and proximate result of this breach, Pioneer has been damaged and is entitled to damages for breach of the Agreements, as well as reasonable attorneys' fees under the Agreements.

PRAYER FOR RELIEF

Wherefore, Pioneer requests entry of judgment in its favor and against Defendants as follows:

A. Enter judgment that Defendants have infringed one or more of the patents and PVP Certificates listed in Exhibits A and B attached to this Complaint;

B. Enter judgment in favor of Pioneer for Defendants' breach of contract;

C. Enter a permanent injunction restraining and enjoining Defendants and their respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with Defendants who receive actual notice of the order by personal service or otherwise, from any further selling, offering for sale, transferring and/or supplying of Pioneer seed without authorization from Pioneer;

D. For damages to compensate Pioneer for Defendants' infringement of one or more of the patents and PVP Certificates listed in Exhibits A and B, pursuant to 35 U.S.C. § 284 and 7 U.S.C. § 2564;

E. For an award of pre-judgment and post-judgment interest and costs to Pioneer in accordance with 35 U.S.C. § 284 and 7 U.S.C. § 2564;

F. For an award of Pioneer's reasonable attorneys' fees pursuant to 35 U.S.C. § 285 and 7 U.S.C. § 2526;

G. For an award of damages for breach of the Seed and Technology Agreements, as well as reasonable attorneys' fees under the Agreements; and

H. Grant to Pioneer such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

DEMAND FOR JURY TRIAL

Pioneer respectfully demands a trial by jury on all claims and issues so triable.

Dated: May 11, 2012

Respectfully submitted,

/s/ B. Trent Webb

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